

## REMARKS

The following remarks are submitted to address the above amendments and issues raised in the Official Action mailed September 17, 2002. A Request for Extension of Time for two months, extending the time in which to respond to this Official Action to February 18, 2003, along with the appropriate fee, is submitted herewith.

Claims 1-34 are pending in this application.

Claims 2, 4, 7, 9-13, 15, 17, 20, 22-26, 28, and 31-34 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 1-5, 7, 9-11, 14-18, 20, 22-24, 27-29, 32, and 33 stand rejected under 35 U.S.C. § 102(b) as being anticipated by "Toe Zone Scale" (American Shoemaking Reference).

Claims 1-5, 7, 9-11, 14-18, 20, 22-24, 27-29, 32, and 33 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Coplon et al. (U.S. Patent No. 6,415,530).

Claims 1-5, 7, 9-11, 14-18, 20, 22-24, 27-29, 32, and 33 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Berger (U.S. Patent No. 5,084,988).

Claims 6, 12, 19, 25, 30, and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over "Toe Zone Scale," Coplon et al., or Berger.

Claims 8, 13, 21, and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over "Toe Zone Scale," Coplon et al., or Berger in view of either Rosen (U.S. Patent No. 4,931,773) or Sigoloff (U.S. Patent No. 4,712,314).

These amendments are made merely to clarify the subject matter of this application. No new matter has been added. Support for requested amendments can be found in the original claims and throughout the present specification and drawings. Applicant respectfully requests consideration of the application in light of the above amendments and the following remarks.

### **Claims 2, 4, 7, 9-13, 15, 17, 20, 22-26, 28, and 31-34—** **35 U.S.C. § 112, Second Paragraph**

The rejections of claims 2, 4, 7, 9-13, 15, 17, 20, 22-26, 28, and 31-34 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention are respectfully traversed.

### **Claims 2, 15, and 28**

The Official Action states that claims 2, 15, and 28 are vague and indefinite because they define the shoe and/or method in reference to “proper placement of a heel” which is an undefined element and that it is not clear what further structural limitations Applicant intends to encompass with such language. (Official Action, para. 1.)

Applicant has amended claims 2, 15, and 28 above to recite “the shoe further comprising a heel portion inside the shoe, wherein the heel placement indicator is positioned on the outsole heel portion in alignment with the inside heel portion.” Applicant respectfully submits that the heel placement indicator positioned on the outsole heel portion in alignment with the **inside heel portion** clearly defines the positioning of the heel placement indicator.

### **Claims 4 and 17**

The Official Action states that in claims 4 and 17, the phrase “permanently integrated” is vague and indefinite because it is not clear what structural limitations Applicant intends to encompass with such language and that “everything can be considered permanent if it is never removed.” (Official Action, para. 1.)

Applicant has amended claims 4 and 17 above to recite “the heel placement indicator and the plurality of shoe size indicators are molded into the outsole.” Applicant respectfully submits that the integration of the heel placement indicator and shoe size indicators into the outsole by **molding** is clear and definite.

### **Claims 9-11, 22-24, 32, and 33**

The Official Action states that claims 9-11, 22-24, 32, and 33 are vague and indefinite and it is not clear what further structural limitations Applicant intends to encompass with such language. (Official Action, para. 1.)

Applicant has amended claims 9, 22, and 32 above to recite “the plurality of shoe size indicators comprises standard shoe sizes for toddlers, children, youth, or adults.” Applicant respectfully submits that “**toddlers, children, youth, or adults**” clarifies the particular age groups for which shoe size indicators comprise standard shoe sizes.

Applicant has amended claims 10, 23, and 33 above to recite “the standard shoe sizes for toddlers, children, youth, or adults comprise gender-specific lengths and widths.” Applicant

respectfully submits that **“gender-specific lengths and widths”** clarifies the structural limitations Applicant intends to encompass for standard shoe sizes for particular age groups in claims 10, 23, and 33.

Applicant has amended claims 11 and 24 above to recite “the outsole further comprising images of (a) stuffed animals, toys, and stars, (b) numbers, letters of the alphabet, and geometric figures, (c) flowers, (d) sports characters, or (e) geometric patterns, having appeal to toddlers, children, youth, or adults that would typically wear the shoe sizes thereon.” Applicant respectfully submits that the listed images clarify the structural limitations Applicant intends to encompass for patterns having an appeal to particular age groups and genders in claims 11 and 24.

#### **Claims 11, 12, 24, and 25**

The Official Action states that in claims 11, 12, 24, and 25, the phrase “patterns having appeal to the age group and gender that would typically wear the shoe sizes” is vague and indefinite because it claims the shoe in reference to an appeal of a person which is undefined, unknown, and unbounded. (Official Action, para. 1.)

Applicant has amended claims 11 and 24 above to recite “the outsole further comprising images of (a) stuffed animals, toys, and stars, (b) numbers, letters of the alphabet, and geometric figures, (c) flowers, (d) sports characters, or (e) geometric patterns, having appeal to toddlers, children, youth, or adults that would typically wear the shoe sizes thereon.” Applicant respectfully submits that the listed images makes the structural limitations Applicant intends to encompass for patterns having an appeal to particular age groups and genders in claims 11 and 24 clear and definite. Applicant has amended claims 12 and 25 to delete reference to “patterns having appeal to the age group and gender that would typically wear the shoe sizes.”

Therefore, Applicant respectfully submits that claims 2, 4, 7, 9-13, 15, 17, 20, 22-26, 28, and 31-34, as amended herein, are definite and particularly point out and distinctly claim the subject matter which Applicant regards as the invention. For all of these reasons, the Office is respectfully requested to withdraw the rejections of claims 2, 4, 7, 9-13, 15, 17, 20, 22-26, 28, and 31-34 under 35 U.S.C. § 112, second paragraph.

**Claims 1-5, 7, 9-11, 14-18, 20, 22-24, 27-29, 32, and 33—35 U.S.C. § 102(b)**

The rejections of claims 1-5, 7, 9-11, 14-18, 20, 22-24, 27-29, 32, and 33 under 35 U.S.C. § 102(b) as being anticipated by “Toe Zone Scale” are respectfully traversed.

Claims 1, 14, and 27, as amended above, claim a shoe, a shoe size indication system, and a method for determining a proper **numerical shoe size** for a person’s foot comprising a plurality of shoe size indicators, each of the shoe size indicators corresponding to a different **numerical shoe size** and labeled with the corresponding **numerical shoe size**, wherein the proper **numerical shoe size for the person’s foot** is indicated. (Emphasis added.)

The Official Action states that the “Toe Zone Scale” shoes show a shoe sole and method of using the shoe soles having a heel indicator and a plurality of lines indicating a plurality of sizes, i.e. less than the zone is a smaller size, the zone area is the size of the actual shoe, and beyond the zone is a larger size. (Official Action, para. 3.)

The “Toe Zone Scale” reference discloses a measuring system on the sole of a shoe having a heel locator to mark the back position of a foot and a bar, or “toe zone,” that shows the toe position in relation to the internal end of the shoe and indicates **proper fit of the shoe**. The “Toe Zone Scale” allows immediate comparison of the foot to the inside length of the shoe. The “Toe Zone Scale” provides the initial correct shoe size and allows monitoring of “how the child’s foot actually compares to the fixed measurement of the shoe as the feet grow.” (“Toe Zone Scale” (emphasis added).)

Nowhere does the “Toe Zone Scale” reference disclose each of a plurality of shoe size indicators corresponding to and labeled with a different **numerical shoe size**, wherein the proper **numerical shoe size for the person’s foot** is indicated, as in the present invention. In contrast, the shoe of the “Toe Zone Scale” discloses a “toe zone” indicator for determining the proper fit of a particular shoe, rather than the specific shoe size for the person unrelated to the particular shoe. Accordingly, the “Toe Zone Scale” reference does not teach each and every element of the present invention in independent claims 1, 14, and 27, as amended. Therefore, the “Toe Zone Scale” reference is deficient as a reference with respect to claims 1, 14, and 27. Because claims 2-5, 7, 9-11, 15-18, 20, 22-24, 28-29, 32, and 33 depend from claims 1, 14, and 27, the “Toe Zone Scale” reference is deficient as a reference with respect to these claims as well.

For all of these reasons, the Office is respectfully requested to withdraw the rejections of claims 1-5, 7, 9-11, 14-18, 20, 22-24, 27-29, 32, and 33 under 35 U.S.C. § 102(b).

**Claims 1-5, 7, 9-11, 14-18, 20, 22-24, 27-29, 32, and 33—35 U.S.C. § 102(e)**

The rejections of claims 1-5, 7, 9-11, 14-18, 20, 22-24, 27-29, 32, and 33 under 35 U.S.C. § 102(e) as being anticipated by Coplon et al. are respectfully traversed.

Claims 1, 14, and 27, as amended above, claim a shoe, a shoe size indication system, and a method for determining a proper **numerical shoe size** for a person's foot comprising a plurality of shoe size indicators, each of the shoe size indicators corresponding to a different **numerical shoe size** and labeled with the corresponding **numerical shoe size**, wherein the proper **numerical shoe size** for the person's foot is indicated. (Emphasis added.)

The Official Action states that Coplon et al. shows shoe soles and method of using shoe soles having a heel indicator (14) and a plurality of lines (22, 24, and 26) indicating a plurality of sizes. (Official Action, para. 4.)

Coplon et al. discloses a shoe with an outsole having a reference gauge at the proximal end for placing the back end of a heel. The shoe includes a first reference mark at the distal end defining a first zone within which toes should extend when the back end of the heel is placed on the reference gauge to ensure a **proper fit of the shoe on the foot**. The shoe also includes a second reference mark distal from the first reference mark defining a second zone corresponding to a clearance distance within the shoe. The shoe can also have a third reference mark corresponding to the width within the shoe and a fourth reference mark corresponding to where the ball of the foot should align when the heel is placed in the reference gauge. (Coplon et al., col. 1, line 65 – col. 2, line 21; claim 1 (emphasis added).) In use, if the toes extend beyond the first zone, the shoe will be too small, and if the toes do not extend to the first zone, the shoe will be too large. (Coplon et al., col. 6, lines 42-46.) The shoe taught by Coplon et al. enables determination of **fit of the particular shoe** having such reference marks and zones. (Coplon et al., col. 4, lines 1-10; col. 5, lines 13-16 and 25-28 (emphasis added).)

Nowhere does Coplon et al. disclose each of a plurality of shoe size indicators corresponding to and labeled with a different **numerical shoe size**, wherein the proper **numerical shoe size for the person's foot** is indicated, as in the present invention. In contrast,

Coplon et al. discloses reference marks defining zones for determining whether the particular shoe is a proper fit for a person's foot. As such, Coplon et al. does not teach each and every element of the present invention in independent claims 1, 14, and 27, as amended. Therefore, Coplon et al. is deficient as a reference with respect to claims 1, 14, and 27. Because claims 2-5, 7, 9-11, 15-18, 20, 22-24, 28-29, 32, and 33 depend from claims 1, 14, and 27, Coplon et al. is also deficient as a reference with respect to these claims.

Moreover, the Coplon et al. patent issued from a continuation-in-part application. The priority date of the present application is August 9, 2000. While the CIP application relies on a priority date of December 17, 1999, the Coplon et al. patent has a filing date of August 23, 2000. Applicant respectfully submits that the Coplon et al. patent may contain new matter not disclosed in the priority application that is relevant to consideration of the Coplon et al. patent as a reference related to the present application. As such, the Coplon et al. patent may not be a proper 35 U.S.C. § 102(e) reference.

For all of these reasons, the Office is respectfully requested to withdraw the rejections of claims 1-5, 7, 9-11, 14-18, 20, 22-24, 27-29, 32, and 33 under 35 U.S.C. § 102(e).

**Claims 1-5, 7, 9-11, 14-18, 20, 22-24, 27-29, 32, and 33—35 U.S.C. § 102(b)**

The rejections of claims 1-5, 7, 9-11, 14-18, 20, 22-24, 27-29, 32, and 33 under 35 U.S.C. § 102(b) as being anticipated by Berger are respectfully traversed.

Claims 1, 14, and 27, as amended above, claim a shoe, a shoe size indication system, and a method for determining a proper **numerical shoe size** for a person's foot comprising a plurality of shoe size indicators, each of the shoe size indicators corresponding to a different **numerical shoe size** and labeled with the corresponding **numerical shoe size**, wherein the proper **numerical shoe size** for the person's foot is indicated. (Emphasis added.)

The Official Action states that Berger shows shoe soles and method using shoe soles having a heel indicator (boundary between elements 4 and 5), and a plurality of lines (6 and boundary between elements 3 and 5) with indicia (7). (Official Action, para. 5.)

Berger discloses a shoe having a front transparent area within the outsole with calibrated markings, such as lines and/or numbers, that form a warning zone **for indicating that a shoe has become too small**. The shoe can also have a rear transparent area within the outsole through

which heel location can be observed. The markings allow monitoring of the distance of the toe tips from the upper tip to see whether the shoe has become too small. (Berger, col. 1, line 38 – col. 2, line 4; col. 3, lines 1-11 (emphasis added).) A nontransparent edge (5) in the front sole area can be used for calibration or marking of the “correct shoe size” by observing whether toe tips are present in the transparent area or grown into the nontransparent area. (Berger, col. 3, lines 62-68.)

Nowhere does Berger disclose each of a plurality of shoe size indicators corresponding to and labeled with a different **numerical shoe size**, wherein the proper **numerical shoe size for the person’s foot** is indicated, as in the present invention. Berger discloses numbers as calibrated warnings that the wearer’s toes have grown into an area near the tip of the shoe indicating insufficient growth reserves for the foot, rather than as indications of various shoe sizes, as in the present invention. In contrast to a plurality of numerical shoe size indicators for indicating a person’s numerical shoe size, Berger teaches a shoe having “a means for indicating **proper shoe fit**” of a particular shoe. (Berger, claim 1 (emphasis added).) Consequently, Berger does not teach each and every element of the present invention in independent claims 1, 14, and 27, as amended. Therefore, Berger is deficient as a reference with respect to claims 1, 14, and 27. Because claims 2-5, 7, 9-11, 15-18, 20, 22-24, 28-29, 32, and 33 depend from claims 1, 14, and 27, Berger is also deficient as a reference with respect to these claims.

For all of these reasons, the Office is respectfully requested to withdraw the rejections of claims 1-5, 7, 9-11, 14-18, 20, 22-24, 27-29, 32, and 33 under 35 U.S.C. § 102(b).

**Claims 6, 12, 19, 25, 30, and 34—35 USC § 103(a)**

The rejections of claims 6, 12, 19, 25, 30, and 34 under 35 U.S.C. § 103(a) as being unpatentable over “Toe Zone Scale,” Coplon et al., or Berger are respectfully traversed.

Claims 1, 12, 14, 25, 27, and 34, as amended above, claim a shoe, a shoe size indication system, and a method for determining a proper **numerical shoe size** for a person’s foot comprising a plurality of shoe size indicators, each of the shoe size indicators corresponding to a different **numerical shoe size** and labeled with the corresponding **numerical shoe size**, wherein the proper **numerical shoe size** for the person’s foot is indicated. (Emphasis added.)

The Official Action states that “Toe Zone Scale,” Coplon et al., or Berger shows shoe soles and method of using such substantially as claimed except for printing the actual size of the

shoe on the bottom of the shoe sole and that it is “extremely” well known and conventional to print the shoe size on the bottom of soles. The Official Action states that it would have been obvious to print the shoe size on the outsole as is well known and conventional in the shoes of either the “Toe Zone Scale,” Coplon et al., or Berger to make it easier to locate properly sized shoes. (Official Action, para. 7.)

As discussed herein, Applicant respectfully submits that “Toe Zone Scale,” Coplon et al., and Berger each do not teach each and every element of independent claims 1, 14, and 27, as amended. Likewise, these three references each do not disclose each of a plurality of shoe size indicators corresponding to and labeled with a different **numerical shoe size**, wherein the proper **numerical shoe size for the person’s foot** is indicated, as in claims 12, 25, and 34, as amended above. Thus, each of these three references does not teach each and every element of independent claims 12, 25, and 34. Therefore, these three references are also deficient as references with respect to claims 12, 25, and 34. Because claims 6, 19, and 30 depend from one of these independent claims, these three references are also deficient as references with respect to claims 6, 19, and 30.

Moreover, Applicant respectfully requests the examiner to provide a reference that it is well known and conventional to print the shoe size on the bottom of soles. In particular, the examiner is respectfully requested to provide a reference showing that it would have been obvious to one of ordinary skill in the art at the time the invention was made to print the shoe size on the bottom of soles having a plurality of shoe size indicators each corresponding to and labeled with a different **numerical shoe size**, wherein the proper **numerical shoe size for the person’s foot** is indicated, as in the present invention. Without such reference, Applicant respectfully submits that printing the shoe size on the bottom of shoe soles as claimed in the present invention would not have been obvious.

For all of these reasons, the Office is respectfully requested to withdraw the rejections of claims 6, 12, 19, 25, 30, and 34 under 35 USC § 103(a).

**Claims 8, 13, 21, and 31—35 USC § 103(a)**

The rejections of claims 8, 13, 21, and 31 under 35 U.S.C. § 103(a) as being unpatentable over “Toe Zone Scale,” Coplon et al., or Berger in view of either Rosen or Sigoloff are respectfully traversed.



Claims 1, 12, 14, and 27 , as amended above, claim a shoe, a shoe size indication system, and a method for determining a **proper numerical shoe size** for a person's foot comprising a plurality of shoe size indicators, each of the shoe size indicators corresponding to a different **numerical shoe size** and labeled with the corresponding **numerical shoe size**, wherein the **proper numerical shoe size** for the person's foot is indicated. (Emphasis added.)

The Official Action states that the "Toe Zone Scale," Coplon, or Berger shows shoe soles and method of using such substantially as claimed except for providing a transparent layer over the bottom of the outsole, and that Rosen or Sigoloff teaches providing a transparent layer (36 or 26) on an outsole over an area of indicia. The Official Action states that it would have been obvious to provide a transparent layer as taught by Rosen or Sigoloff in the shoes and method of "Toe Zone Scale," Coplon, or Berger to increase the durability and to make the indicia easier to read after the shoes have been worn. (Official Action, para. 8.)

As discussed herein, Applicant respectfully submits that "Toe Zone Scale," Coplon et al., and Berger each do not teach each and every element of independent claims 1, 12, 14, and 27, as amended above. In particular, these three references each do not teach each of a plurality of shoe size indicators corresponding to and labeled with a different **numerical shoe size**, wherein the **proper numerical shoe size for the person's foot** is indicated, as in claims 1, 12, 14, and 27, as amended. Thus, each of these three references is deficient as a reference with respect to claims 1, 12, 14, and 27. Because claims 8, 13, 21, and 31 depend from these independent claims, these three references are also deficient as references with respect to claims 8, 13, 21, and 31.

Rosen discloses a shoe fitting system comprising a shoe having at least one translucent portion containing reference markings thereon to permit viewing of the position of portions of a foot in the shoe in comparison to the reference markings **to determine the fit of the shoe relative to the foot therein**. Reference markings in the toe region show the **recommended locations of the ends of the toes** both at purchase and at the end of the recommended fitting life of the shoe. (Rosen, claim 1; col. 3, lines 21-32 (emphasis added).) Sigoloff discloses a footwear sole comprising an inner ply and an outer ply, the outer ply having an aperture in which a transparent element fits and covers a decorative insert. (Sigoloff, col. 1, lines 52-66; claim 1.) Nowhere does Rosen or Sigoloff disclose each of a plurality of shoe size indicators corresponding to and labeled with a different **numerical shoe size**, wherein the **proper numerical shoe size for the person's foot** is indicated, as in claims 1, 12, 14, and 27, as

amended. Accordingly, both Rosen and Sigoloff fail to cure the deficiencies of “Toe Zone Scale,” Coplon et al., and Berger as references with respect to claims 1, 12, 14, and 27. Because claims 8, 13, 21, and 31 depend from these independent claims, both Rosen and Sigoloff also fail to cure the deficiencies of “Toe Zone Scale,” Coplon et al., and Berger as references with respect to claims 8, 13, 21, and 31.

Moreover, “[t]he teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure.” (MPEP § 2142.) Thus, Applicant respectfully submits that there is no suggestion or motivation in either of these five references, and therefore it would not have been obvious to one of ordinary skill in the art at the time the invention was made, to modify or combine the respective teachings of these references, to achieve a shoe, a shoe size indication system, and a method for determining a proper **numerical shoe size** with a transparent material overlaying the outsole, as claimed in the present invention.

For all of these reasons, the Office is respectfully requested to withdraw the rejections of claims 8, 13, 21, and 31 under 35 USC § 103(a).

**Version With Markings To Show Changes Made**

**Amendments in the Claims**

In accordance with 37 CFR 1.121(c), the following version of the claims as rewritten by the foregoing amendments show all the changes made relative to the previous versions of the claims, with additions underlined and deletions [bracketed].

1. (Amended)        A shoe for determining a proper numerical shoe size for a person's foot, the foot having a heel with a rear margin and toes with a forward margin, comprising:
  - an outsole having a heel portion, a forward portion, a length, and a width;
  - a heel placement indicator positioned on the heel portion; and
  - a plurality of shoe size indicators located on at least a portion of the forward portion, each of the plurality of shoe size indicators located a distance from the heel placement indicator along the length of the outsole corresponding to a different numerical shoe size and labeled with the corresponding numerical shoe size;

wherein when the rear margin of the person's heel is aligned with the heel placement indicator, the numerical shoe size immediately beyond the end of the forward margin on the person's toes indicates the proper numerical shoe size for the person's foot.
2. (Amended)        The shoe of claim 1, the shoe further comprising a heel portion inside the shoe, wherein the heel placement indicator is positioned on the outsole heel portion in alignment with [proper placement of a heel inside the shoe] the inside heel portion.
4. (Amended)        The shoe of claim 1, wherein the heel placement indicator and the plurality of shoe size indicators are [permanently integrated] molded into the outsole.
7. (Amended)        The shoe of claim 1, further comprising a pair of shoes, wherein the heel placement indicator and the plurality of shoe size indicators are placed on each of a left shoe and a right shoe of [a] the pair of shoes.

9. (Amended) The shoe of claim 1, wherein the plurality of shoe size indicators comprises standard shoe sizes for [a particular age group] toddlers, children, youth, or adults.

10. (Amended) The shoe of claim 9, wherein the standard shoe sizes for toddlers, children, youth, or adults [a particular age group are] comprise gender-specific lengths and widths.

11. (Amended) The shoe of claim 10, the outsole further comprising images of (a) stuffed animals, toys, and stars, (b) numbers, letters of the alphabet, and geometric figures, (c) flowers, (d) sports characters, or (e) geometric patterns, having appeal to toddlers, children, youth, or adults [the age group and gender] that would typically wear the shoe sizes thereon.

12. (Amended) A shoe for determining a proper numerical shoe size, comprising:  
an outsole having a heel portion, a forward portion, a length, and a width;  
a heel placement indicator positioned on the heel portion in alignment with [proper placement of a heel inside the shoe] a heel portion inside the shoe; and  
a plurality of shoe size indicator lines located across at least a portion of the width of the forward portion, each of the plurality of shoe size indicator lines located a distance from the heel placement indicator along the length of the outsole corresponding to a different numerical shoe size and labeled with the corresponding numerical shoe size;  
wherein the shoe further comprises a size and the size of the shoe is indicated on the shoe outsole;  
[wherein the heel placement indicator and the plurality of shoe size indicator lines are placed on each of a left shoe and a right shoe of a pair of shoes;] and  
wherein the shoe sizes corresponding to the plurality of shoe size indicator lines comprise[s] standard shoe sizes for toddlers, children, youth, or adults and [a particular age group and] gender-specific lengths and widths[: and  
wherein the shoe further comprises patterns having appeal to the age group and gender that would typically wear the shoe sizes thereon].

14. (Amended) A shoe size indication system for determining a proper numerical shoe size for a person's foot, the foot having a heel with a rear margin and toes with a forward margin, comprising:

an outsole having a heel portion, a forward portion, a length, and a width;  
a heel placement indicator positioned on the heel portion; and  
a plurality of shoe size indicators located on at least a portion of the outsole forward portion, each of the plurality of shoe size indicators located a distance from the heel placement indicator along the length of the outsole corresponding to a different numerical shoe size and labeled with the corresponding numerical shoe size;

wherein when the rear margin of the heel of the person's foot is aligned with the heel placement indicator and the person's toes are positioned to overlap the plurality of shoe size indicators, the numerical shoe size indicator immediately beyond the end of the person's [longest] toe forward margin indicates the proper numerical shoe size for the person's foot.

15. (Amended) The shoe size indication system of claim 14, the shoe further comprising a heel portion inside the shoe, wherein the heel placement indicator is positioned on the outsole heel portion in alignment with [proper placement of the person's heel inside the shoe] the inside heel portion.

17. (Amended) The shoe size indication system of claim 14, wherein the heel placement indicator and the plurality of shoe size indicators are [permanently integrated] molded into the outsole.

22. (Amended) The shoe size indication system of claim 14, wherein the plurality of shoe size indicators comprises standard shoe sizes for [a particular age group] toddlers, children, youth, or adults.

23. (Amended) The shoe size indication system of claim 22, wherein the standard shoe sizes for [a particular age group are] toddlers, children, youth, or adults comprise gender-specific lengths and widths.

24. (Amended) The shoe size indication system of claim 23, the outsole further comprising images of (a) stuffed animals, toys, and stars, (b) numbers, letters of the alphabet, and geometric figures, (c) flowers, (d) sports characters, or (e) geometric patterns, having appeal to toddlers, children, youth, or adults [the age group and gender] that would typically wear the shoe sizes thereon.

25. (Amended) A shoe size indication system for determining a proper numerical shoe size for a person's foot, comprising:

an outsole having a heel portion, a forward portion, a length, and a width;

a heel placement indicator positioned on the heel portion in alignment with [proper placement of a heel inside the shoe] a heel portion inside the shoe; and

a plurality of shoe size indicator lines located across at least a portion of the width of the forward portion, each of the plurality of shoe size indicator lines located a distance from the heel placement indicator along the length of the outsole corresponding to a different numerical shoe size and labeled with the corresponding numerical shoe size;

wherein when the heel of the person's foot is aligned with the heel placement indicator and the person's toes are positioned to overlap the plurality of shoe size indicators, the shoe size indicator immediately beyond the end of the person's longest toe indicates the proper numerical shoe size for the person's foot;

wherein the shoe further comprises a size and the size of the shoe is indicated on the shoe outsole;

wherein the heel placement indicator and the plurality of shoe size indicator lines are placed on each of a left shoe and a right shoe of a pair of shoes; and

wherein the shoe sizes corresponding to the plurality of shoe size indicator lines comprise[s] standard shoe sizes for toddlers, children, youth, or adults and [a particular age group and] gender-specific lengths and widths[: and

wherein the shoe further comprises patterns having appeal to the age group and gender that would typically wear the shoe sizes thereon].

27. (Amended) A method for determining a proper numerical shoe size for a person's foot, the person's foot having a heel with a rear margin and toes with a forward margin, comprising:

providing a shoe comprising an outsole having a heel portion, a forward portion, a length, and a width, a heel placement indicator positioned on the heel portion, and a plurality of shoe size indicators located on at least a portion of the outsole forward portion, each of the plurality of shoe size indicators located a distance from the heel placement indicator along the length of the outsole corresponding to a different numerical shoe size and labeled with the corresponding numerical shoe size;

aligning the rear margin of the person's heel with the heel placement indicator;

positioning the person's toes to overlap the plurality of shoe size indicators; and

observing the location of the forward margin of the person's toes on the plurality of shoe size indicators;

wherein the shoe size indicator immediately beyond the end of the forward margin of the person's toes indicates the proper numerical shoe size for the person's foot.

28. (Amended) The method for determining a proper size shoe for a person's foot of claim 27, the shoe further comprising a heel portion inside the shoe, wherein the heel placement indicator is positioned on the outsole heel portion in alignment with [proper placement of the person's heel inside the shoe] the inside heel portion.

32. (Amended) The method for determining a proper size shoe for a person's foot of claim 27, wherein the plurality of shoe size indicators comprises standard shoe sizes for [a particular age group] toddlers, children, youth, or adults.

33. (Amended) The method for determining a proper size shoe for a person's foot of claim 32, wherein the standard shoe sizes for [a particular age group are] toddlers, children, youth, or adults comprise gender-specific lengths and widths.

34. (Amended) A method for determining a proper numerical shoe size for a person's foot, the person's foot having a heel with a rear margin and toes with a forward margin, comprising:

providing a shoe comprising an outsole having a heel portion, a forward portion, a length, and a width, a heel placement indicator positioned on the heel portion in alignment with [proper placement of the person's heel inside the shoe] a heel portion inside the shoe, and a plurality of shoe size indicator lines located on at least a portion of the outsole forward portion, each of the plurality of shoe size indicator lines located a distance from the heel placement indicator along the length of the outsole corresponding to a different numerical shoe size and labeled with the corresponding numerical shoe size, the shoe sizes corresponding to the plurality of shoe size indicator lines further comprising standard shoe sizes for toddlers, children, youth, or adults and [a particular age group and] gender-specific lengths and widths, the shoe further comprising a size and the size of the shoe indicated on the shoe outsole;

aligning the rear margin of the person's heel with the heel placement indicator;

positioning the person's toes to overlap the plurality of shoe size indicators; and

observing the location of the forward margin of the person's toes on the plurality of shoe size indicators;

wherein the shoe size indicator immediately beyond the end of the forward margin of the person's toes indicates the proper numerical shoe size for the person's foot.



**Conclusion**

Applicant submits that a full and complete response has been made herein to the Official Action and, as such, all pending claims in this application are now in condition for allowance. Therefore, Applicant respectfully requests early consideration of the present application, entry of all amendments herein requested, withdrawal of all rejections, and allowance of all pending claims.

The Office is respectfully invited to contact J. Michael Boggs at (336) 747-7536, to discuss any matter relating to this application.

Respectfully submitted,

2/18/03  
Date

J. Michael Boggs  
J. Michael Boggs  
Reg. No. 46,563

Kilpatrick Stockton LLP  
1001 West Fourth Street  
Winston-Salem, NC 27101  
(336) 747-7536  
(336) 734-2632 (facsimile)

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